

## EMERGENCY Chapter NR 325

### MAINTENANCE, REPAIR AND REMOVAL PROCEDURES FOR BOATHOUSES AND FIXED HOUSEBOATS ON NAVIGABLE WATERWAYS

**NR 325.01 Purpose.** These rules are promulgated pursuant to ss. 30.121 and 227.11(2)(a) and (b), Stats., in order to establish a valuation program for boathouses and fixed houseboats, to define terms used in s. 30.121, Stats., and other terms necessary to the administration of s. 30.121, Stats., and these rules, and to establish standards and procedures for certification of maintenance and repair costs, certification of eligibility for exceptions, and procedures for the department to use in obtaining removal of abandoned boathouses and fixed houseboats or boathouses which materially obstruct navigation.

**NR 325.02 Applicability.** These rules apply to boathouses and fixed houseboats that extend beyond the ordinary highwater mark of navigable waterways.

**NR 325.03 Definitions.** (1) "Abandoned" means the relinquishment of possession of a boathouse or fixed houseboat by the owner with indications of intent to terminate ownership, which may be evidenced by several factors such as the failure to act to maintain or repair boathouses or fixed houseboats that are in a major state of disrepair.

(2) "Boathouse" means a permanent structure used for the storage of watercrafts and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts. For purposes of this chapter, the term boathouse does not include shore stations or boathouses which are removed from a waterway on an annual basis.

(3) "Constructed or placed" means:

- (a) The original erection of a boathouse or the original placement of a fixed houseboat beyond the ordinary highwater mark of any navigable waterway; or
- (b) The building of additions to existing boathouses or existing fixed houseboats; or
- (c) The relocation of a boathouse or a fixed houseboat beyond the ordinary highwater mark of any navigable waterway at a location different from its location at the date of this act; or
- (d) The conversion of a boathouse or fixed houseboat in a manner to allow permanent or temporary human habitation after December 15, 1979.

(4) "Current value" means the equalized assessed value as determined by s. 70.32, Stats., or, if not assessed, its current fair market value as certified by a competent appraiser using standard real estate appraisal techniques. If assessed, but the assessment for the boathouse or fixed houseboat cannot be separately distinguished from the general property assessment, the current value shall be the current fair market value as set forth above.

(5) "Fixed houseboat" means a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables attached to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(6) "Major state of disrepair" means a state of damage or deterioration, such that the repair or replacement thereof would exceed 50% of its current value.

(7) "National, state or local historical landmark" means a structure listed in or determined eligible for listing in the national registry of historical places or in a local municipal historical preservation ordinance by using procedures prescribed by the Wisconsin state historical society.

(7k) "Navigable waterway" means any body of water with defined bed and banks, which is navigable under the laws of the state. In Wisconsin, a navigable body of water is capable of floating the lightest boat or skiff used for recreation or any other purpose on a regularly recurring basis.

(8) "Not actually used for navigation" means that, while possibly floatable and maneuverable, the primary purpose is not navigation.

(9) "Ordinary high water mark" means the point on the banks or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognizable characteristics.

**NR 325.05 Current value.** An owner wishing to repair or maintain a boathouse or fixed houseboat shall provide to the department proof of its current value.

**NR 325.06 Repair and maintenance cost. (1)** Owners of boathouses or fixed houseboats shall obtain a certification from the department that all needed repair and maintenance costs total less than 50% of the current value of the structure prior to performance of the maintenance of repairs.

(2) If all needed repair and maintenance costs total less than 10% of the current value, the owner does not need to apply to the department for a certification pursuant to this chapter. However, any such owner shall maintain a record of the current value at the time of repair and the costs of all needed repairs and maintenance and shall submit such records to the department upon request.

**NR 325.07 Certification procedure for repair and maintenance. (1)** Except as provided for in s. NR 325.06 (2), owners of boathouses or fixed houseboats wishing to perform maintenance or repairs shall request certification that all required maintenance and repairs do not exceed 50% of the current value. The request for certification shall be made to the department and shall contain the information set forth in ss. NR 325.05 and 325.09(1) and (2).

(2) The department shall review the information submitted by the applicant for certification and shall inspect the boathouse or fixed houseboat.

(3) The department shall within 60 days issue a certification as requested if the department agrees with the estimates of all needed repair or maintenance costs and finds that all needed maintenance or repairs are less than 50% of the current value.

(4) If the department disagrees with either the cost estimate for all needed maintenance or repairs or the current value it may obtain independent estimates of such cost or current value. The department shall issue the requested certification if the independent estimates for costs of all needed maintenance or repairs and current value are less than 50% of the current value.

(5) The department certification shall contain a requirement that the boathouse owner record the certification with the register of deeds for the municipality where the boathouse is located, and that the boathouse owner submit an affidavit showing proof of recording prior to commencing repairs.

(6) The department shall deny requested certification if either the independent or applicant's estimates of costs for all needed maintenance or repairs exceeds 50% of the current value and shall declare the boathouse or fixed houseboat to be in a major state of disrepair. Any owner denied certification may review the denial pursuant to s. 227.42, Stats.

**NR 325.08 Certification procedure for exceptions. (1)** Owners wishing to repair or maintain a boathouse or fixed houseboat pursuant to s. 30.121(3g), Stats., construct, repair or maintain a single-story boathouse pursuant to s. 30.121(3m), Stats., repair or reconstruct a boathouse pursuant to s. 30.121(3r), Stats., or construct, repair or maintain a boathouse pursuant to s. 30.121(3w), Stats., shall request certification that the proposed activity is eligible for an exception. The request for certification shall be made to the department and contain the information in ss. NR 325.09 and 325.10.

(2) The department shall review the information submitted by the applicant for certification, and shall inspect the boathouse or fixed houseboat or the site of the proposed boathouse.

(3) The department shall within 60 days issue a certification as requested, if the department agrees that the proposed activity is eligible for a statutory exception.

(4) The department shall within 60 days deny certification if the department determines that the proposed activity does not meet the requirements of s. 30.121, Stats., and this chapter to be eligible for an exception. Any owner denied certification may review the denial pursuant to s. 227.42, Stats.

**NR 325.09 Standards. (1) MAINTENANCE.** In addition to the requirements of s. 30.121(3), Stats., repair and maintenance of existing boathouses and fixed houseboats must meet the following conditions:

(a) Repair and maintenance is limited to the 3-dimensional envelope of the existing boathouse or fixed houseboat. No expansion of the boathouse or fixed houseboat in any direction is allowed.

(b) Repair and maintenance may not include any change in roof pitch or addition of decks, walkways, railings or other architectural features.

(c) Decks, walkways, railings or piers that are attached or adjacent to the boathouse or fixed houseboat shall be considered part of the boathouse or fixed houseboat, and shall be subject to the repair limitations of s. 30.121(3), Stats.

**(2) DAMAGED BOATHOUSE.** In addition to the requirements of s. 30.121(3r), Stats., repair or reconstruction of a damaged boathouse must meet the following conditions to be eligible for an exception:

(a) The boathouse owner shall demonstrate that the boathouse was damaged by violent wind, vandalism or fire. Documentation shall include photographs that depict the boathouse before and after the damage.

(b) The boathouse owner shall demonstrate that the damage occurred after January 1, 1984.

(c) Repair and reconstruction is limited to the specific portions of the boathouse that were damaged. Any other proposed work on the boathouse that is not related to specific damage caused under pars. (a) and (b) is subject to the limitations of s. 30.121(3), Stats., the procedures of s. NR 325.07 and the standards in sub. (1).

**(3) COMMERCIAL BOATHOUSE.** In addition to the requirements of s. 30.121(3w), Stats., a commercial boathouse shall meet the following conditions to be eligible for an exception.

(a) The boathouse may not be located over natural navigable waters, and may only be located over an artificial waterway enlargement authorized under s. 30.19, Stats.

(b) The boathouse may only be located on a Great Lakes waterbody or on a riverfront property that is within 2 miles of and tributary to a Great Lakes waterbody.

(c) The boathouse may only be located landward of an existing bulkhead line.

(d) The bulkhead line shall have been established prior to January 1, 1970.

**NR 325.10 Certification information. (1) REQUIRED INFORMATION.** For certification requests filed pursuant to s. NR 325.07, an application form including plans, photographs and a location sketch shall be submitted to the department showing the following information.

(a) *Location.* The waterway upon which the boathouse or fixed houseboat is located, the legal description of the adjacent property and directions to the site.

(b) *Owner.* The owner's name, address, fire number (if available) and telephone number.

(c) *Features.* Information about the following features and their state of repair:

1. Boathouses.
  - a. Foundations.
  - b. Structural framework.
  - c. Siding.
  - d. Roofing.
  - e. Presence and description of living quarters, if any.
2. Fixed houseboats.
  - a. Devices used to secure the fixed houseboat to the bank or bed.
  - b. Floatation devices.
  - c. Superstructure framework.
  - d. Siding.
  - e. Roof.
  - f. Presence and description of living quarters, if any.

**(2) STATEMENT OF MAINTENANCE OR REPAIRS.** For certification requests filed pursuant to s. NR 325.07, the applicant shall provide a statement of all needed maintenance or repair items regardless of whether the maintenance or repair will be done within one year of the statement. An estimate of labor and material cost associated with those items shall be submitted. Estimates may be prepared by the applicant or by a contractor or contractors representing the applicant. Volunteer labor shall be valued at the prevailing minimum wage rate.

**(3) CERTIFICATION OF EXCEPTION.** For certification requests filed to seek an exception pursuant to s. NR 325.08, an application form including plans, photographs and a location sketch shall be submitted showing the following information:

(a) *Location.* The waterway upon which the boathouse or fixed houseboat is located, the legal description of the adjacent property and directions to the site.

(b) *Owner.* The owner's name, address, fire number (if available) and telephone number.

(c) *Historic or cultural value.* For applications to request an exception under s. 30.121(3g), Stats., documentation to demonstrate that the boathouse or fixed boathouse has been designated as a national, state or local historical landmark.

(d) *Single-story boathouse.* For applications to request an exception under s. 30.121(3m), Stats., documentation to demonstrate that the waterway enlargement has been authorized by the department, and that the project meets the standards in s. 30.121(3m), Stats.

(e) *Damaged boathouse.* For applications to request an exception under s. 30.121(3r), Stats., documentation to demonstrate that the project meets the standards in s. 30.121(3w), Stats., and s. NR 325.09.

(f) *Commercial boathouse.* For applications to request an exception under s. 30.121(3w), Stats., documentation to demonstrate that the project meets the standards in s. 30.121(3w), Stats., and s. NR 325.09.

**NR 325.11 No permit necessary.** No permit is necessary pursuant to s. 30.12, Stats., for the maintenance and repair of boathouses and fixed houseboats.

**NR 325.12 Removal procedure for abandoned boathouses or fixed houseboats. (1)** Upon complaint or upon its own motion the department shall initiate the process set forth in s. 31.187, Stats., for the removal of abandoned boathouses or fixed houseboats.

**(2)** The department prior to removal shall issue a 60 day notice to the owner of the boathouse or fixed houseboat if the owner can be reasonably ascertained.

(3) If the owner cannot be determined, the department shall publish a class 3 notice pursuant to ch. 985, Stats.

(4) After the 60 day period of notification to the owner or one week after the last insertion pursuant to ch. 985, Stats., has passed, the department shall remove abandoned boathouses or fixed houseboats.

**NR 325.13 Enforcement.** Upon complaint or upon its own motion the department shall order the removal of boathouses or fixed houseboats which materially obstruct navigation or are in a major state of disrepair pursuant to the provisions of s. 30.03(4)(a), Stats. Forfeitures and abatement for violations of s. 30.121, Stats., and this chapter may also be prosecuted by the department pursuant to the provisions of ss. 23.50, 23.79 and 30.03 (2), Stats.